

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**

January 30, 2012

**DATE THE DECISION ISSUED**

December 14, 2011

*LIBRARY USERS ASSOCIATION v ARTS COMMISSION (CASE NO. 11084)*

**FACTS OF THE CASE**

Complainant Library Users Association ("LUA") alleges that the San Francisco Arts Commission (the "Commission") violated Section 67.14(b) of the Ordinance by failing to provide LUA an opportunity to review an audio recording of the meeting of the Visual Arts Committee ("VAC") meeting held on August 17, 2011.

**COMPLAINT FILED**

On October 11, 2011, LUA filed a complaint with the Task Force alleging a violation of Section 67.14(b).

**HEARING ON THE COMPLAINT**

On December 14, 2011, Executive Director Peter Warfield presented LUA's case to the Task Force. Susan Pontious, Director of the Civic Arts Collection and the Public Art program, represented the Commission.

Mr. Warfield said he was interested in the Bernal Heights Branch Library mural project and had asked to listen to a tape recording of the VAC meeting when it was discussed. He said even though all Charter commissions must audio record every meeting and the recording be made available to the public, VAC said it did not have the recording. He said if the Task Force accepts VAC's argument all boards and commissions would be rushing to create subcommittees to avoid meeting Sunshine requirements. He said the Commission also did not provide him with alternative ways to find out what happened at the meeting. He added that VAC also qualifies as a legislative body under the Brown Act.

Ms. Pontious said the Commission was under the Charter but the subcommittee was not and therefore it was not required to record the minutes under Section 67.14(b). She also said the Good Government Guide in Part Three, Section G2c, which deals with the taking of minutes, supports the Commission's position. She said she was not a lawyer but was following the advice provided by Deputy City Attorney Adine Varah.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Task Force told Ms. Pontious that if VAC was created by the Arts Commission, it would be a policy body under Section 67.3(d)(4), and under Section 67.14(c) all policy bodies are required to record its meetings. The Task Force also said VAC meets the requirement of Section 67.3(d)(5) because it is a standing committee of a policy body.

### **DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the Arts Commission violated Section 67.14(c) for failing to record meetings of the Visual Arts Committee, which is a policy body under Section 67.3(d)(4) & (5), and to send a letter to the City Attorney's Office regarding the enforcement of Section 67.14(c). The Task Force noted that VAC did not willfully violate the Ordinance because the advice it received was inaccurate.

The Commission shall appear before the Education, Outreach and Training Committee on Thursday February 9, 2012, at 4 p.m. in Rm. 406 at City Hall.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on December 14, 2011, by the following vote: (Wolfe/Knee)

Ayes: Snyder, Knee, Cauthen, Manneh, Washburn, Costa, Wolfe, West, Johnson

Absent: Chan



Hope Johnson, Chair  
Sunshine Ordinance Task Force



David Snyder, Esq., Member, Seat #1\*  
Sunshine Ordinance Task Force

cc: Library Users Association, Complainant  
Susan Pontious, Respondent  
Jerry Threet, Deputy City Attorney

\*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law.